

## **REMARKS**

### **Revocation of Power of Attorney**

Applicant is enclosing herewith a Revocation of Power of Attorney and Appointment of New Attorney naming BRUCE H. TROXELL as attorney of record in this patent application. It is requested that all further correspondence regarding this matter be forwarded to TROXELL LAW OFFICE PLLC at the address listed on the enclosed form. A CHANGE OF ADDRESS FORM is also being submitted herewith.

### **Claim Rejections**

Claims 1-2 are rejected under 35 U.S.C. § 102(b) as being anticipated by Eschenbach ('013). Claims 1-2 are rejected under 35 U.S.C. § 102(b) as being anticipated by Eschenbach ('014).

### **Drawings**

The Examiner has objected to the drawings under 37 C.F.R. § 1.83(a) insofar as the adjusting mechanism (manual or electrically operated), referred to in Applicant's claim 2, were not illustrated in the original drawings. Since these terms have been deleted from Applicant's new claims, it is not believed that any drawing corrections are necessary.

It is noted that no Patent Drawing Review (Form PTO-948) was received with the outstanding Office Action. Thus, excepted as discussed above, Applicant must assume that the drawings are acceptable as filed.

### **New Claims**

By this Amendment, Applicant has canceled claims 1-2 and has added new claims 3-5 to this application. It is believed that the new claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

The new claims are directed toward an oval-tracking exercise apparatus comprising: a main frame (11); a rotary body (14) rotatably connected to a first end of the main frame; two treadle bars (13), each of the two treadle bars is pivotally connected at a first end thereof to one of two opposing sides of the rotary body; two rocker arms (12), each of the two rocker arms is pivotally connected at an end thereof to a second end of one of the two treadle bars; and a connecting mechanism (20) having: two first connecting rods (23), each of the two first connecting rods is pivotally connected at a first end thereof to one of the two treadle bars at a position located between one of the two rocker arms and the rotary body; two second connecting rods (24), each of the two second connecting rods is pivotally connected to one of the two rocker arms; and two positioning rods (21), each of the two positioning rods is pivotally connected at a first positioning rod end to a second end one of the two first connecting rods, at a first connecting point to a second end of one of the two second connecting rods, and at a second connection point to a second end of the main frame, the first connecting point and the second connection point are located between the first positioning rod end and a second positioning rod end.

Other embodiments of the present invention include: an adjusting mechanism (30) pivotally connected at the second positioning rod end of each of the two positioning rods and selectively positioning the two positioning rods and the two treadle bars between a plurality of a predetermined positions; and the first connecting point of each of the two positioning rods is located between the first positioning rod end and the second connecting point.

The first primary reference to Eschenbach '013 teaches an exercise apparatus having foot support members (14, 16) connected between rocker links (22, 24) and crank arms (18, 20), handles (30, 32) connected to a frame member (4), and connector links (26, 28) connected between the rocker links and the handles.

Eschenbach '013 does not teach each of the two rocker arms is pivotally connected at an end thereof to a second end of one of the two treadle bars; each of the two positioning rods is pivotally connected at a first positioning rod end to a second end one of the two first connecting rods; nor does Eschenbach '013 teach

each of the two positioning rods is pivotally connected at a second connection point to a second end of the main frame.

It is axiomatic in U.S. patent law that, in order for a reference to anticipate a claimed structure, it must clearly disclose each and every feature of the claimed structure. Applicant submits that it is abundantly clear, as discussed above, that Eschenbach '013 do not disclose each and every feature of Applicant's new claims and, therefore, could not possibly anticipate these claims under 35 U.S.C. § 102. Absent a specific showing of these features, Eschenbach '013 cannot be said to anticipate any of Applicant's new claims under 35 U.S.C. § 102.

The second primary reference to Eschenbach '014 teaches an exercise apparatus having foot support members (10, 12) connected between crank arms (18, 20) and handles (46, 48), first control links (38, 40) connected between the handles and a frame (51), a control arm (50) connected between the frame and second control links (34, 36), the second control links are connected to the guide links (42, 44) of the handles.

Eschenbach '014 does not teach each of the two first connecting rods is pivotally connected at a first end thereof to one of the two treadle bars at a position located between one of the two rocker arms and the rotary body; each of the two positioning rods is pivotally connected at a first positioning rod end to a second end one of the two first connecting rods; each of the two positioning rods is pivotally connected at a second connection point to a second end of the main frame; nor does Eschenbach '014 teach an adjusting mechanism pivotally connected at a second positioning rod end of each of the two positioning rods.

It is axiomatic in U.S. patent law that, in order for a reference to anticipate a claimed structure, it must clearly disclose each and every feature of the claimed structure. Applicant submits that it is abundantly clear, as discussed above, that Eschenbach '014 do not disclose each and every feature of Applicant's new claims and, therefore, could not possibly anticipate these claims under 35 U.S.C. § 102. Absent a specific showing of these features, Eschenbach '014 cannot be said to anticipate any of Applicant's new claims under 35 U.S.C. § 102.

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It is further submitted that neither Eschenbach '013 nor Eschenbach '014 disclose, or suggest any modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Thus, it is not believed that either Eschenbach '013 or Eschenbach '014 render obvious any of Applicant's new claims under 35 U.S.C. § 103.

**Summary**

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

Date: March 25, 2005

By:

  
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